

§ 239.1

- 239.8 Operating restrictions.
- 239.9 Conversion or liquidation of mutual holding companies.
- 239.10 Procedural requirements.
- 239.11 Subsidiary holding companies.
- 239.12 Communication between members of a mutual holding company.
- 239.13 Charters.
- 239.14 Charter amendments.
- 239.15 Bylaws.
- 239.16 Voluntary dissolution.

Subpart C—Subsidiary Holding Companies

- 239.20 Scope.
- 239.21 Charters.
- 239.22 Charter amendments.
- 239.23 Bylaws.
- 239.24 Issuances of stock by subsidiary holding companies of mutual holding companies.
- 239.25 Contents of Stock Issuance Plans.
- 239.26 Shareholders.
- 239.27 Board of directors.
- 239.28 Officers.
- 239.29 Certificates for shares and their transfer.
- 239.30 Annual reports; books and records.
- 239.31 Indemnification; employment contracts.

Subpart D—Indemnification; Employment Contracts

- 239.40 Indemnification of directors, officers and employees.
- 239.41 Employment contracts.

Subpart E—Conversions from Mutual to Stock Form

- 239.50 Purpose and scope.
- 239.51 Acquiring another insured stock depository institution as part of a conversion.
- 239.52 Definitions.
- 239.53 Prior to conversion.
- 239.54 Plan of conversion.
- 239.55 Filing requirements.
- 239.56 Vote by members.
- 239.57 Proxy solicitation.
- 239.58 Offering circular.
- 239.59 Offers and sales of stock.
- 239.60 Completion of the offering.
- 239.61 Completion of the conversion.
- 239.62 Liquidation account.
- 239.63 Post-conversion.
- 239.64 Contributions to charitable organizations.
- 239.65 Voluntary supervisory conversions.
- 239.66 Board review of the voluntary supervisory conversion application.

APPENDIX A TO PART 239—MUTUAL HOLDING COMPANY MODEL CHARTER

APPENDIX B TO PART 239—SUBSIDIARY HOLDING COMPANY OF A MUTUAL HOLDING COMPANY MODEL CHARTER

12 CFR Ch. II (1–1–15 Edition)

APPENDIX C TO PART 239—MUTUAL HOLDING COMPANY MODEL BYLAWS

APPENDIX D TO PART 239—SUBSIDIARY HOLDING COMPANY OF A MUTUAL HOLDING COMPANY MODEL BYLAWS

AUTHORITY: 12 U.S.C. 1462, 1462a, 1464, 1467a, 1828, and 2901.

SOURCE: Reg. MM, 76 FR 56357, Sept. 13, 2011, unless otherwise noted.

Subpart A—General Provisions

§ 239.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued by the Board of Governors of the Federal Reserve System (“Board”) under section 10(g) and (o) of the Home Owners’ Loan Act (“HOLA”).

(b) *Purpose.* The principal purposes of this part are to:

(1) Regulate the reorganization of mutual savings associations to mutual holding companies and the creation of subsidiary holding companies of mutual holding companies;

(2) Define and regulate the operations of mutual holding companies and subsidiary holding companies of mutual holding companies; and

(3) Set forth the procedures for securing approval for these transactions.

(c) *Scope.* Except as the Board may otherwise determine, the reorganization of mutual savings associations into mutual holding companies, any related stock issuances by subsidiary holding companies, and the conversion of mutual holding companies into stock form are exclusively governed by the provisions of this part, and no mutual savings association shall reorganize to a mutual holding company, no subsidiary holding company of a mutual holding company shall issue minority stock, and no mutual holding company shall convert into stock form without the prior written approval of the Board. The Board may grant a waiver in writing from any requirement of this part for good cause shown.

§ 239.2 Definitions.

As used in this part and in the forms under this part, the following definitions apply, unless the context otherwise requires:

(a) *Acquiree association* means any savings association, other than a resulting association, that:

Federal Reserve System

§ 239.2

(1) Is acquired by a mutual holding company as part of, and concurrently with, a mutual holding company reorganization; and

(2) Is in the mutual form immediately prior to such acquisition.

(b) *Acting in concert* has the same meaning as in § 238.31(b) of this chapter.

(c) *Affiliate* has the same meaning as in § 238.2(a) of this chapter.

(d) *Associate* of a person is:

(1) A corporation or organization (other than the mutual holding company, subsidiary holding company, or any majority-owned subsidiaries of such holding companies), if the person is a senior officer or partner, or beneficially owns, directly or indirectly, 10 percent or more of any class of equity securities of the corporation or organization.

(2) A trust or other estate, if the person has a substantial beneficial interest in the trust or estate or is a trustee or fiduciary of the trust or estate. For purposes of §§ 239.59(k), 239.59(m), 239.59(n), 239.59(o), 239.59(p), 239.63(b), a person who has a substantial beneficial interest in the mutual holding company or subsidiary holding company's tax-qualified or non-tax-qualified employee stock benefit plan, or who is a trustee or a fiduciary of the plan, is not an associate of the plan. For the purposes of § 239.59(k), the mutual holding company or subsidiary holding company's tax-qualified employee stock benefit plan is not an associate of a person.

(3) Any natural person who is related by blood or marriage to such person and:

(i) Who lives in the same home as the person; or

(ii) Who is a director or senior officer of the mutual holding company, subsidiary holding company, or other subsidiary.

(e) *Company* means any corporation, partnership, trust, association, joint venture, pool, syndicate, unincorporated organization, joint-stock company or similar organization, as defined in paragraph (u) of this section; but a company does not include:

(1) The Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or any Federal Home Loan Bank, or

(2) Any company the majority of shares of which is owned by:

(i) The United States or any State,

(ii) An officer of the United States or any State in his or her official capacity, or

(iii) An instrumentality of the United States or any State.

(f) *Control* has the same meaning as in § 238.2(e) of this chapter.

(g) *Default* means any adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for a mutual holding company or subsidiary savings association of a mutual holding company.

(h) *Demand accounts* mean non-interest-bearing demand deposits that are subject to check or to withdrawal or transfer on negotiable or transferable order to the savings association and that are permitted to be issued by statute, regulation, or otherwise and are payable on demand.

(i) *Insider* means any officer or director of a company or of any affiliate of such company, and any person acting in concert with any such officer or director.

(j) *Member* means any depositor or borrower of a mutual savings association that is entitled, under the charter of the savings association, to vote on matters affecting the association, and any depositor or borrower of a subsidiary savings association of a mutual holding company that is entitled, under the charter of the mutual holding company, to vote on matters affecting the mutual holding company.

(k) *Mutual holding company* means a holding company organized in mutual form under this part, and unless otherwise indicated, a subsidiary holding company controlled by a mutual holding company, organized under this part.

(l) *Parent* means any company which directly or indirectly controls any other company or companies.

(m) *Person* includes an individual, bank, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

§ 239.2

12 CFR Ch. II (1–1–15 Edition)

(n) *Reorganization Notice* means a notice of a proposed mutual holding company reorganization that is in the form and contains the information required by the Board.

(o) *Reorganization Plan* means a plan to reorganize into the mutual holding company format containing the information required by § 239.6.

(p) *Reorganizing association* means a mutual savings association that proposes to reorganize to become a mutual holding company pursuant to this part.

(q) *Resulting association* means a savings association in the stock form that is organized as a subsidiary of a reorganizing association to receive the substantial part of the assets and liabilities (including all deposit accounts) of the reorganizing association upon consummation of the reorganization.

(r) *Savings account* means any withdrawable account, except a demand account, a tax and loan account, a note account, a United States Treasury general account, or a United States Treasury time deposit-open account.

(s) *Savings Association* has the same meaning as in § 238.2(1) of this chapter.

(t) *Savings and loan holding company* has the same meaning as specified in section 10(a)(1) of the HOLA and § 238.2(m) of this chapter.

(u) *Similar organization* for purposes of paragraph (e) of this section means a combination of parties with the potential for or practical likelihood of continuing rather than temporary existence, where the parties thereto have knowingly and voluntarily associated for a common purpose pursuant to identifiable and binding relationships which govern the parties with respect to either:

(1) The transferability and voting of any stock or other indicia of participation in another entity, or

(2) Achievement of a common or shared objective, such as to collectively manage or control another entity.

(v) *Stock* means common or preferred stock, or any other type of equity security, including (without limitation) warrants or options to acquire common or preferred stock, or other securities that are convertible into common or preferred stock.

(w) *Stock Issuance Plan* means a plan, submitted pursuant to § 239.24 and containing the information required by § 239.25, providing for the issuance of stock by a subsidiary holding company.

(x) *Subsidiary* means any company which is owned or controlled directly or indirectly by a person, and includes any service corporation owned in whole or in part by a savings association, or a subsidiary of such service corporation.

(y) *Subsidiary holding company* means a federally chartered stock holding company controlled by a mutual holding company that owns the stock of a savings association whose depositors have membership rights in the parent mutual holding company.

(z) *Tax and loan account* means an account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain United States obligations. Such accounts are not savings accounts or savings deposits.

(aa) *Tax-qualified employee stock benefit plan* means any defined benefit plan or defined contribution plan, such as an employee stock ownership plan, stock bonus plan, profit-sharing plan, or other plan, and a related trust, that is qualified under sec. 401 of the Internal Revenue Code (26 U.S.C. 401).

(bb) *United States Treasury General Account* means an account maintained in the name of the United States Treasury the balance of which is subject to the right of immediate withdrawal, except in the case of the closure of the member, and in which a zero balance may be maintained. Such accounts are not savings accounts or savings deposits.

(cc) *United States Treasury Time Deposit Open Account* means a non-interest-bearing account maintained in the name of the United States Treasury which may not be withdrawn prior to the expiration of 30 days' written notice from the United States Treasury, or such other period of notice as the Treasury may require. Such accounts are not savings accounts or savings deposits.